

REMARKS

Claims 1-54 are pending in the present application.

The Office has required restriction in the present application by the election of a single disclosed species of disclosed in Claims 1, 3, 6, 11, 16, 21, and 26, and set forth on pages 3-13.

Applicants elect, with traverse, "A heterocyclic compound with a heteropentacycle, with no benzene ring forming the skeleton, and with a functional group," for further prosecution. If further election is required, Applicants elect, with traverse, 7-hydroxy-5-alkyl-1,3,4-triazaindolizine, for further prosecution. And, if even further election is deemed necessary, Applicants elect with traverse, 7-hydroxy-5-methyl-1,3,4-triazaindolizine, for further prosecution. Claims 1-54 read on the elected species.

Applicants make no statement regarding the patentable distinctness of the species, but note that for restriction to be proper, there must be a patentable difference between the species as claimed. MPEP §808.01(a). Applicants respectfully traverse the Election of Species Requirement on the grounds that the Office has not provided any reasons or examples to support a conclusion that the species are indeed patentably distinct. Accordingly, Applicants respectfully submit that the restriction is improper, and Applicants' election of species is for examination purposes only.

Moreover, the MPEP in §803 states as follows:

"If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."

Applicants respectfully submit that a search of all the claims would not impose a serious burden on the Office.

Finally, with respect to the elected species, Applicants respectfully submit that, should the elected species be found allowable, the Office should expand its search to the non-elected species.

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Election of Species Requirement. Withdrawal of the Election of Species Requirement is respectfully requested.


In addition, Applicants submit that the newly present claims are methods of using the compositions of Claims 1-30, and as such it would be improper to separate these claims. Accordingly, all the pending claims should be examined on the merits in accordance with the Election of Species provided herein.

Applicants submit that the present application is now in condition for allowance.

Early notification of such action is earnestly solicited.

Respectfully submitted,

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Docket No.: 205429US0
Serial No.: 09/820,749

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IN THE CLAIMS

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